



DOCKET NO. 4006-00

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#14
B.J.
7-23-02

In re Application of :
Jinsaun CHEN :
Serial No. 09/069,947 : Group Art Unit: 2644
Filed: April 30, 1998 : Examiner: LAURA GRIER
For: 3-IN-1 ANTI-NOISE RADIO SOUND-COLLECTION DEVICE

PETITION

Honorable Commissioner of Patents
and Trademarks
Washington, DC 20231

Sir:

Applicant hereby petitions pursuant to 37 CFR § 1.181 to remove a holding of Non-Compliance and return the fee for this petition and for a three month extension of time in the above case for the following reasons:

An Office Action in the above entitled case issued on January 18, 2002. Applicant's attorney responded by an Amendment filed March 11, 2002, and a copy of that Amendment is attached hereto.

By a paper dated April 19, 2002, and received applicants' attorney April 29, 2002, copy attached, a legal instruments examiner held the amendment non-compliant indicating in the notice that a marked up version of the amended claim is required pursuant to 37 CFR § 1.121(c)(1)(ii). Applicant's attorney, on May 8, 2002, phoned the Examiner to report that this notice of non-compliance was erroneous in that the last sentence of the cited paragraph in the rules clearly states that a marked up version for a

claim added when a claim is cancelled is not required. In this particular case a single claim was filed with the application, that claim was cancelled, and a new claim submitted. The Examiner indicated that she would look into the matter and get back to applicant's attorney.

The Examiner did not call until June 18, 2002. In this call she indicated that a mistake had been made and what was necessary was a marked up and clean copy of the changes made to the specification, not the claim. The Examiner indicated that it would be necessary to submit a new amendment with an extension of time request and the extension of time fee. Since the case is now in its six month a three month extension was required in the amount of \$460.00.

In order to avoid abandonment applicant's attorney is resubmitting the amendment with a request for a three month extension and the appropriate fee.

The requirement for a marked up version of the specification is not of record in this case and the revised amendment was submitted only in response to the oral requirement by the Examiner on June 18, 2002.

Accordingly, it is requested that the Notice of Non-Compliance be withdrawn and the Petition and extension fee returned to applicant.

Respectfully submitted,



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Date: June 26, 2002

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231

on June 26, 2002
By: Sharon V. V. V.